

## Chapter 530

### Pay Rates and Systems (General)

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## Subchapter 1. Basic Policies and Principles

### 1-1. BASIC POLICY

Section 5301 of title 5, United States Code, sets a basic, uniform pay policy that covers four of the major statutory pay plans—the General Schedule, the Postal Field Service System, the Foreign Service Act System and the Department of Medicine and Surgery Salary System of the Veterans Administration. The law establishes two broad principles that form the foundation for sound pay administration:

- The *comparability* principle, under which Federal pay is to be reasonably comparable with private enterprise pay for the same level of work.
- The internal *alinement* principle, under which there is to be equal pay for substantially equal work and pay distinctions in keeping with distinctions in work and performance.

### 1-2. THE COMPARABILITY PRINCIPLE

The principle that Federal pay is to be comparable to private enterprise pay is a very important element in pay administration. For the employee, it assures equity with his counterparts in the private sector of the economy. In addition, it permits him to know that such legitimate pay considerations as cost of living, standard of living, and productivity are being reflected in his pay, just as they are reflected in the going rate over bargaining tables and in other pay-determining processes throughout the country. For agencies it means an improvement in the ability to compete with private firms for well-qualified personnel. For employees, agencies, and the

public alike, the comparability principle assures a logical, objective standard for setting Federal pay and keeping it current.

The General Schedule is based directly on private enterprise national average pay rates as reported annually by the Bureau of Labor Statistics. For other systems, comparability is achieved through a linkage concept at certain key levels or ranks in each system. The linkage concept establishes a relationship between systems based in most situations on an evaluation of duties, responsibilities, and qualifications required for the levels which are linked. Also taken into account under the linkage concept are a number of other factors which should affect pay, such as career patterns, opportunities for advancement, employment conditions, and special requirements of the service concerned.

### 1-3. THE INTERNAL ALINEMENT PRINCIPLE

The principle of internal alinement rests on the concept of equal pay for equal work but providing distinctions in pay consistent with distinctions in work and performance. This principle is basic to a sound pay system. Under this principle, pay schedules should provide adequate and regularized differences in pay between successive grade levels, thus giving appropriate recognition to differences in responsibilities. Similarly, pay schedules should provide pay ranges within each grade level sufficiently broad to permit within-grade increases large enough to serve as significant incentives and numerous enough to sustain performance even where much of an employee's career is spent at a single grade level.

**2-5. AGENCY INFORMATION AND ASSISTANCE**

Agencies employing personnel under statutory pay systems cited in section 5304 of title 5, United States Code, are to provide any information and technical staff assistance for the statu-

tory pay systems applicable to them that may be requested by the Director of the Bureau of the Budget and the Chairman of the Civil Service Commission in carrying out the provisions of Executive Order 11073 relating to the annual reports on pay comparability.

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## Subchapter 2. Annual Reports of Pay Comparability

### 2-1. LEGAL BASIS

Section 5302 of title 5, United States Code, provides that the President shall have prepared and submitted to him annually a report that compares Federal pay rates with private enterprise pay rates and, after seeking the views of employee organizations, shall report annually to Congress the comparison of Federal and private enterprise pay rates and such recommendations for revision of statutory pay schedules, pay structures, and pay policy, as he considers advisable. The comparison with private enterprise rates is to be based on annual surveys of pay rates of salaries in private firms made by the Bureau of Labor Statistics. Section 201 of Executive Order 11073 of January 2, 1963, assigned to the Director of the Bureau of the Budget and the Chairman of the Civil Service Commission joint responsibility for preparing and submitting to the President the report required by section 5302 of title 5, United States Code.

### 2-2. COVERAGE

The annual pay review and report required by section 5302 of title 5, United States Code, is to be made for employees paid under the following statutory authorities: (1) Subchapter III of chapter 53 of title 5, United States Code; (2) part III of title 39, United States Code, relating to personnel in the postal field service; (3) the Foreign Service Act of 1946, as amended (22 U.S.C. 801 *et seq.*); and (4) chapter 73 of title 38, United States Code, relating to personnel

of the Department of Medicine and Surgery in the Veterans Administration.

### 2-3. CONSULTATION WITH EMPLOYEE ORGANIZATIONS

Executive Order 11073 requires the Director of the Budget and the Chairman of the Civil Service to provide the findings of the Bureau of Labor Statistics survey—compiled in compliance with 5 U.S.C. 5302—and the methods and results of their comparison of Federal salaries with these findings, to whatever Federal employee organizations that they consider appropriate. In addition, the order requires that the Budget Director and the Commission Chairman establish suitable means for receiving and considering the employee organizations' views on the findings and that they transmit these views to the President with their report.

### 2-4. CONTENT OF REPORT—AGENCY RECOMMENDATIONS

The annual report to the President is to contain the recommendations on statutory pay schedules, pay structures, pay policy, and other related matters, that the Director and the Chairman consider advisable. In preparing the report, the Director and the Chairman are to obtain and consider, and transmit to the President with their report, the recommendations that may be made to them by the heads of the agencies employing personnel under the Postal Field Service, Foreign Service, and the Veterans Administration's Department of Medicine and Surgery Pay Systems.

**2-5. AGENCY INFORMATION AND ASSISTANCE**

Agencies employing personnel under statutory pay systems cited in section 5304 of title 5, United States Code, are to provide any information and technical staff assistance for the statu-

tory pay systems applicable to them that may be requested by the Director of the Bureau of the Budget and the Chairman of the Civil Service Commission in carrying out the provisions of Executive Order 11073 relating to the annual reports on pay comparability.

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f. Agencies are responsible for responding to the FPM bulletin which initiates the annual review of special salary rates. Agencies are requested to submit data to OPM on positions covered by special rate authorizations. The bulletin will provide specific guidance and instructions about any salary survey review requirements.

g. OPM is responsible for announcing newly approved special rate schedules and the adjustments made to special rate schedules as a result of the annual review. ★★

h. Federal agency employers are responsible for keeping abreast of their staffing situations and taking positive action to ensure smooth, efficient agency operations. Recruitment or retention difficulties should not be permitted to reach a point where agency operations are seriously handicapped before special rates or the alternatives to special rates outlined in FPM supplement 990-2, book 530, are considered. To ensure the early identification of problem occupations requiring special assistance, agencies should regularly monitor their basic staffing and turnover statistics.

### 3-5. REQUESTING SPECIAL SALARY RATES

a. **Agency proposal.** An agency may propose to OPM the establishment of special rates under section 5303 of title 5, United States Code.

(1) All requests, whether for a new schedule or for adjustment of an existing schedule, and all reports regarding the annual review of special rates must be transmitted directly to OPM's central office through the agency's headquarters office. Each request must include a certification by the head of the agency or department that the special rates are necessary to

ensure staffing adequate to the accomplishment of the agency's mission and that funds are available to cover the increased expenditures for salaries and benefits that would result from approval of the request. (If the special rate request covers fewer than 200 employees and would increase annual salary costs by less than \$200,000, this certification may be provided by a headquarters official designated to act on behalf of the head of the agency or department.) An agency may also request to be exempt from the coverage of proposed or existing special salary rate authorizations.

(2) The agency's headquarters is responsible for the accuracy of the staffing and other supporting data submitted to OPM.

(3) All requests will be submitted to the Associate Director, Personnel Systems and Oversight Group, United States Office of Personnel Management, Washington, D.C. 20415.

b. **Information to be submitted.** Requests should (a) specify the particular position title, series, grade(s) and geographic area(s) for which the special rates are being proposed; (b) furnish statistical evidence (number of vacancies, number of quits, and related statistics) to show that the agency's recruitment and retention of well-qualified personnel is significantly handicapped; and (c) describe other measures taken to alleviate the staffing problems (such as recruitment efforts, attempts at internal placement through upward mobility, correction of working conditions which may be contributing to the staffing problem). OPM Form 1397 in FPM supplement 990-2, book 530, appendix A, was designed for this purpose and must be completed for both new requests and the annual review reports. Book 530 also provides other guidance for the preparation of requests for special salary rates.

## Subchapter 3. Special Salary Rates for Recruitment and Retention

### 3-1. LEGAL BASIS

a. **Law.** Section 5303 of title 5, United States Code, authorizes the President to establish special minimum rates of basic pay for one or more grades, occupational groups, series, classes, or subdivisions of classes subject to statutory pay schedules in one or more areas or locations when the pay rates in private enterprise are so substantially above the statutory pay rates for the positions concerned as to handicap significantly the Government's recruitment or retention of well-qualified persons. When special minimum rates of basic pay are established under this authority, corresponding increases may also be made in one or more of the remaining pay rates of the pay range for the affected grade or level.

b. **Executive Order 11721.** Section 301(a) of Executive Order 11721 of May 23, 1973, as amended, authorizes the Office of Personnel Management to exercise the authority conferred upon the President by the provisions of section 5303 of title 5, United States Code, to establish and revise special minimum pay rates and rate ranges and to prescribe conversion rules for adjusting an employee's pay (1) for positions classified under the General Schedule and, (2) after consultation with the head of the department or agency concerned, for positions classified under (a) the Department of Medicine and Surgery of the Veterans Administration system, or (b) the Foreign Service Act system.

c. **Other authorities.** The Veterans Administration may use other authorities to establish and pay special salary rates. Special salary rates may be established for (1) Department of Medicine and Surgery General Schedule employees providing direct patient care or services incident to direct patient care under 38 U.S.C. 4107(g), (2) employees who are Veterans Administration police officers providing services under section 218 of title 38, and (3) nurses and certain other employees of the Department of Medicine and Surgery appointed under chapter 73 of title 38, United States Code.

### 3-2. NATURE OF PROGRAM

a. Various provisions of law provide pay systems for

the General Schedule, the Department of Medicine and Surgery of the Veterans Administration, and the Foreign Service. The basic pay rates established under these systems apply to all positions under the respective systems. For particular occupations, or in particular areas, however, the general pay rates may prove inadequate. The objective of section 5303 of title 5, United States Code, is to provide higher minimum salary rates than those provided by the General Schedule (as well as by the pay schedules used by the Department of Medicine and Surgery of the Veterans Administration and the Foreign Service) when such higher minimum rates are necessary for Government agencies to compete with non-Federal employers for well-qualified persons. However, the law requires that higher rates must be based on a finding that the salaries being paid for a given occupation in a given area by non-Federal employers are so high as to handicap the Government significantly in its recruitment or retention of well-qualified employees for that occupation.

b. It is not the intent of the special salary rate program to raise the salaries of Government employees merely to equalize salaries with non-Federal employers, nor to keep pace with changes in the cost of living. The law does not provide for correcting staffing problems which are related to factors other than higher non-Federal pay.

c. The program may not be applied prospectively. Neither recruitment nor retention problems which can reasonably be predicted, nor higher non-Federal rates which are likely to be paid in the future, may be used as the basis for a request for special salary rates. Rather, the existence of a current, demonstrated staffing problem is required to document a special rate request. However, once a staffing problem is found to exist, the prospect of it continuing may be considered and addressed in the request.

### 3-3. ESTABLISHMENT OF SPECIAL SALARY RATES

a. **Conditions for establishment.** (1) *Primary conditions.* Special salary rates may be established only upon a finding—

- (a) That the Government's recruitment or retention of well-qualified persons is significantly handicapped and;
- (b) That the recruitment or retention problem is caused by substantially higher pay rates in private enterprise for the occupation or occupations concerned in one or more areas or locations.

Before reaching such a finding, OPM must satisfy itself that an agency has given adequate attention to relevant factors other than pay, such as the conduct of an adequate recruiting program, the offering of career-conditional appointments, the redesigning of jobs, the establishment of training programs, and the improvement of working conditions. (Ordinarily, increased rates will only be authorized when other techniques cannot meet the need for well-qualified eligibles.)

(2) *Other factors.* In arriving at a decision to establish special salary rates under section 5303 of title 5, United States Code, and at what level to set them, OPM may consider other factors, as appropriate, such as:

- (a) The level of rates believed necessary to produce an adequate number of well-qualified persons. (Typically, new rates established should not exceed this level.)
- (b) The cost vs. benefits to be received from paying higher rates. (These should outweigh any unfavorable effects that may accrue, e.g., affects upon pay relationships with employees in other positions.)
- (c) Agency views on the impact of the increased costs, including a certification by the agency or department that the special rates are necessary to ensure staffing adequate to the accomplishment of the agency's mission and that funds are available to cover the increased expenditures for salaries and benefits.

b. **Limitations.** (1) In no event may a special minimum pay rate established under section 5303 of title 5, United States Code, exceed the maximum pay rate prescribed by law for the grade or level.

(2) Special rates for *all* occupations in a grade or level in a given geographic area will not be established by OPM unless adequate recruitment and retention cannot be achieved by establishment of higher rates for *certain* occupations or groups of occupations.

c. **Revisions.** Special salary rate authorizations are reviewed annually. (Refer to FPM supplement 990-2, book ♦ 530, ♦ for a discussion of the annual review process.) ★★ If no change is warranted for a particular

authorization, the special rate range for that authorization remains as it was and no alignment is made with the rates of the new General Schedule.

d. **Application of special salary rates.** When special rates are authorized under section 5303 of title 5, United States Code, unless exempt at agency request, all agencies covered by the authorization must pay these rates to current employees under the pay system concerned in the specific occupation and in the geographic area or location to which they apply. All new employees must be hired at the special rate. However, since each of the special salary rate schedules is subject to change at any time based on improvement or deterioration of the staffing conditions upon which the authorization is based, agencies should exercise caution when making commitments of employment for future dates. The rates of pay in effect at the enter on duty date could be higher or lower than the currently published rates; any commitments for rates of pay higher than those in effect on the enter on duty date cannot be honored. (Refer to FPM supplement 990-2, book ♦ 530, ♦ for information on adjusting pay rates for employees who become initially entitled to special rates, and for other pay administration guidance.)

e. **Effect on equivalent increase provisions.** An increase in basic pay authorized under section 5303 of title 5, United States Code, is not an equivalent increase in pay within the meaning of section 5335(a) of that title and section 3553 of title 39.

#### 3-4. ROLE OF OFFICE OF PERSONNEL MANAGEMENT AND THE AGENCIES

a. OPM may initiate proposals for increased rates as well as evaluate proposals submitted by agencies.

b. Agencies are responsible for coordinating their requests with other agencies if the request would cover one or more occupations in other agencies within the commuting area of the position(s) in the request.

c. OPM undertakes necessary consultation with agencies before establishing or revising special rates.

d. OPM is responsible for making decisions on increasing rates. Agencies must carry the primary responsibility for detecting and reporting the need for increases.

e. OPM and employing agencies both have a responsibility to initiate action for discontinuance or revision of special rates whenever these rates are no longer necessary or justified.

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